



ARIZONA HOUSE OF REPRESENTATIVES

SB 1431/HB 2394: empowerment scholarships; expansion; phase-in

PRIME SPONSOR: Senator Lesko, LD 21

BILL STATUS: [Chaptered](#)

Abstract

Relating to ESA eligibility, funding and program administration.

Legend:

AOI – Arizona Online Instruction
ADE – Arizona Department of Education
ADOR – Arizona Department of Revenue
ESA – Empowerment Scholarship Account
GED – General Equivalency Diploma
LEA – Local Education Agency
SY – School Year
AP – Advance Placement
Amendments – **BOLD** and ~~Stricken~~ (Committee)

Provisions

ESA Eligibility

1. Phases in ESA eligibility to any child in grades K-12, or eligible for Kindergarten by SY 2021.
2. Makes the following changes to ESA eligibility.
 - a. Removes a definition for legally blind.
 - b. Stipulates that the failing school district eligibility qualification applies to students residing within the boundaries of a D or F school district.
 - c. Deems children eligible to enroll in Kindergarten if the child is between four and seven years of age.
 - d. Stipulates the required full-time attendance at a government school be at least 100 days rather than the first 100 days of the prior Fiscal Year.
3. Allows ADE to request LEAs to provide confirmation of eligibility for AOI students and directs the school to comply within 10 days.
4. Stipulates that ESA students who continue to be enrolled in a qualified school remain eligible to apply for renewal until the student finishes high school, obtains a GED or reaches 22 years of age.
 - a. Permits ADE to request confirmation of the student's progress towards high school graduation or completion of a GED.
 - b. Directs students who are at least 18 years of age and have been identified as having a disability or qualify for educational therapies or services to remain eligible to apply for renewal until 22 years of age without being enrolled in a qualified school if the student continues to use at least 50% of available monies annually for eligible purchases.
 - c. Permits ADE to remove students who are not in compliance in the subsequent year.

ESA Participation and Administration

5. Removes the Annual Education Plan process.
6. Prohibits students from accepting an STO scholarship during the same time the student is actively enrolled in an ESA and permits ADE to request the qualified school provide conformation that the student is in compliance.
7. Requires qualified students in grades 3-12 who pay tuition as a full-time student at a qualified school to annually take one of the outlined assessments, beginning in SY 2018.

☐ Prop 105 (45 votes) ☐ Prop 108 (40 votes) ☐ Emergency (40 votes) ☐ Fiscal Note

- a. Allows students to meet the requirement by taking an exam chosen and administered at a qualified school or if the parent chooses one of the outlined exams administered outside the school.
 - b. Direct exam results to be reported to the student's parent.
 - c. Exempts students identified with a disability from exam requirements.
 - d. Permits ESA monies to be used for examination fees.
8. Requires qualified schools that enroll 50 or more ESA students and administer one of the previous exams to annually make available aggregate student test scores to the public or on request.
 - a. Allows a network of qualified schools to publish the aggregate scores by grade level for all schools within the network.
 9. Directs ADE to allow applicants to identify all potential applicable eligibility criteria when applying and prohibits ADE from restricting applicants to identifying a single eligibility criteria.
 10. Requires ADE to allow applicants and current ESA holders to give written consent and identify a third-party to assist in the application process or in interactions with ADE beginning on October 1, 2017.
 11. Requires, rather than permits, the State Treasurer to contract with private financial management firms to manage ESAs and requires ADE to cooperate with the Treasurer and the contracted firm.
 12. Permits parents to appeal any administrative decision made by ADE regarding allowable expenses, removal from the program or enrollment eligibility and directs ADE to notify parents of the ability to appeal at the same time as notification of an administrative decision.
 13. Directs ADE to make monthly transfers to ESAs rather than quarterly, beginning January 1, 2018 and prohibits delaying deposits unless monies will be retroactively prorated to the time the parent agreed to the ESA terms and conditions.
 14. Requires ADE to enroll and issue award letters within 30 days, beginning January 1, 2018.
 15. Directs ADE, when denying ESA eligibility, to notify the applicant of statutory deficiencies and the rationale for denial.
 16. Permits ADE to adopt procedures rather than rules and requires the development and implementation of procedures to comply with the intent of the law and give the most available educational options.
 17. Requires adopted policies to include expense reporting, eligible expenses and application procedures.
 - a. Prohibits the restriction of curriculum choices.
 - b. Directs ADE to request additional documentation regarding eligible expenses and provide the parent an opportunity to respond before denying an expenditure.

ESA Funding

18. Directs ESA funding to be based on whether the student was previously attending either a charter or district school.
 - a. Prohibits a reduction in funding for students who have received an ESA by June 30, 2017.
19. Directs ADE to fund ESAs for students whom ADOR has determined to be low-income at 100% of the sum of the Base Support Level and Additional Assistance based on whether the student was previously attending a charter or district school and transfer the funds from the monies that would be otherwise allocated to the prior or, for eligible Kindergarteners, the expected school district or charter school.

20. Extends the current ESA cap until 2022.
21. Caps the number of approved ESAs beginning in FY 2023 at the number of approved ESAs during the SY 2022.

ADOR Procedures

22. Establishes the ADOR ESA Fund for ADORs costs in administering ESAs.
 - a. Directs ADE to transfer 1% of the monies received for ESAs into the ADOR ESA Fund.
 - b. Allows ADOR to request an increase in the Fund appropriation if the number of ESAs significantly increases.
 - c. Designates monies in the fund as subject to appropriation and exempts them from lapsing.
23. Directs ADOR and ADE to establish a process to determine low-income classification for ESA funding purposes.
24. Permits ADE to request income verification using already-available information from ADOR and limits ADOR to verification only of the student's eligibility for increased funding.
25. Directs ADE to allow applicants to designate whether they would like to be classified as low-income for ESA funding purposes.
26. Permits alternative forms to be developed for income verification.
27. Outlines procedures for ADOR to notify ADE of errors in income classification and directs ADE to lower the funding level to that of a student that is determined to not qualify as low-income.
28. Permits students to receive the regular level of funding on signing the ESA agreement and be subsequently increased on the designation of low-income status.
29. Permits the disclosure of confidential information to ADE for the purpose of income eligibility verification for ESA purposes.

ESA Policy Handbook

30. Instructs ADE to annually develop and publish an applicant and participant policy handbook by July 1 that includes specified information on adopted ESA policies.
31. Limits ADE's administration of ESA policies to those outlined in the handbook, excluding internal agency policies.
32. Prohibits ADE from publishing, revising or enforcing policies in the handbook before completing a 60-day public comment period and submitting a copy of the handbook and revisions to the Governor and Legislature.
33. Requires ADE to post on its website specified information and data relating to ESAs that is updated monthly.

ESA Review Council

34. Establishes the ESA Review Council and outlines membership.
35. Prohibits members from receiving compensation, except that Governor appointees are eligible for expense reimbursement.
36. Charges the Council with reviewing ESA administration, making legislative recommendations, reviewing policy handbook changes and submitting an annual report.
37. Directs ADE to provide technical assistance.
38. Repeals the Council on January 1, 2021.

Miscellaneous

39. Defines *low-income student*.

40. Makes technical changes.

Current Law

[Laws 2011, Chapter 75](#), established the ESA program. An ESA qualified student is defined as an Arizona resident who is any of the following:

1. Identified as having a disability;
2. Attends or is eligible to attend kindergarten at a D or F school or school district;
3. A previous scholarship recipient of the ESA program or the Arizona Scholarships for Pupils with Disabilities Program;
4. A child whose parent or guardian is a member of the armed forces and on active duty or was killed in the line of duty (these students are exempt from any further requirements for qualification);
5. A child who is a ward of the juvenile court;
6. A child who is a sibling of a current or previous ESA recipient;
7. A child who resides within the boundaries of an Indian reservation; or
8. A child of a parent who is legally blind, deaf or hard of hearing.

The qualifying student must also meet at least one of the following requirements:

1. Attended a governmental primary or secondary school as a full-time student for at least 100 days of the prior fiscal year and who transferred under a contract to participate in an ESA;
2. Previously participated in the ESA program;
3. Received a scholarship from a School Tuition Organization and continues to attend a qualified school;
4. Was eligible for an Arizona Scholarship for Pupils with Disabilities; or
5. Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten or preschool children with disabilities program. ([A.R.S. § 15-2401](#))